

# FOIA Request : The BQX Project : Expedited Processing and Fee Waiver Requested

Sent:  March 26, 2018 3:33 PM

From: Progress New York [contact@progressnewyork.news](mailto:contact@progressnewyork.news)

To: [USAEO.FOIA.REQUESTS@USDOJ.GOV](mailto:USAEO.FOIA.REQUESTS@USDOJ.GOV) [USAEO.FOIA.REQUESTS@USDOJ.GOV](mailto:USAEO.FOIA.REQUESTS@USDOJ.GOV)

CC: [rebecca.tinio@usdoj.gov](mailto:rebecca.tinio@usdoj.gov) [rebecca.tinio@usdoj.gov](mailto:rebecca.tinio@usdoj.gov), [Rukhsanah.Singh@usdoj.gov](mailto:Rukhsanah.Singh@usdoj.gov)  
[Rukhsanah.Singh@usdoj.gov](mailto:Rukhsanah.Singh@usdoj.gov)

Ladies and Gentlemen :


Attached please find a FOIA Request submitted for records about the proposed Brooklyn-Queens Connector project, or BQX. Expedited processing and a fee waiver are being requested for records about the BQX. Kindly confirm receipt of this FOIA Request before the end of business today.

Thank you kindly.

Louis Flores  
Progress New York  
[progressnewyork.news](mailto:progressnewyork.news)  
[contact@progressnewyork.news](mailto:contact@progressnewyork.news)  
(929) 279-2292

Sent with [ProtonMail](#) Secure Email.

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 1 file attached

 [20180326\\_BQX\\_DOJ\\_FOIARequest.pdf](#) (290.16 KB)

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**Louis Flores**

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26 March 2018

**VIA E-MAIL AND FIRST CLASS U.S. MAIL : USAEO.FOIA.REQUESTS@USDOJ.GOV**

Kevin Krebs, Assistant Director, FOIA/Privacy Unit,  
Executive Office for United States Attorneys,  
U.S. Department of Justice,  
175 N Street, NE, Suite 5.400,  
Washington, DC 20530-0001.

Ladies and Gentlemen :

**Re : REQUEST UNDER FREEDOM OF INFORMATION ACT**  
**Expedited Processing Requested**

This letter constitutes a request (« Request ») pursuant to the Freedom of Information Act (« FOIA » or the « Act »), 5 U.S.C. § 552 *et seq.*, the U.S. Department of Justice implementing regulations, 28 C.F.R. § 16.1 *et seq.*, the President's Memorandum of January 21, 2009, 74 Fed. Reg. 4683 (Jan. 26, 2009), and the Attorney General's Memorandum of March 19, 2009, 74 Fed. Reg. 49,892 (Sept. 29, 2009). I submit this Request as a reporter of Progress New York, a news Web site.

This Request seeks information and records pertaining to investigation files of the **Brooklyn-Queens Connector**, or **BQX**, a streetcar service proposed by Mayor Bill de Blasio (D-New York City) to connect the waterfronts of Brooklyn and Queens.

The BQX is a very expensive construction project, estimated to cost approximately \$2,5 billion. The project was reported to be so expensive that it was described by the media to lack financial feasibility. *See* Dana Rubinstein, *City memo suggests BQX may not be financially feasible after all*, POLITICO New York (14 Apr 2017), <https://www.politico.com/states/new-york/city-hall/story/2017/04/confidential-city-memo-suggests-bqx-may-not-be-financially-feasible-after-all-111261>. Like so much else about the de Blasio administration, the BQX came to be described as an example of pay-to-play corruption, because real estate developers, which stood to benefit from the construction

of the BQX, made six-figure donations to the Campaign for One New York, the nonprofit lobbying arm of the de Blasio administration. *See* The Editorial Board, *471 days, zero credibility for Mayor de Blasio's accounting of disappointed donors*, The New York Daily News (2 Sept 2017), <http://www.nydailynews.com/opinion/471-days-zero-credibility-mayor-de-blasio-donors-article-1.3461951>.

The U.S. Attorney's Office for the Southern District of New York was reportedly investigating pay-to-play corruption scandals engulfing the de Blasio administration, including those reportedly involving the Campaign for One New York. *See* Chris Perez, *Preet Bharara to question Mayor de Blasio over City Hall corruption*, The New York Post (27 Jan 2017), <https://nypost.com/2017/01/27/preet-bharara-to-question-mayor-de-blasio-over-city-hall-corruption/>. Ultimately, no criminal charges were pressed against any official in the de Blasio administration in connection with the Federal corruption investigation. *See* Louis Flores, *In an example of Government institutions permitting corruption, prosecutors announce no charges for de Blasio*, Progress Queens (17 March 2017), <http://www.progressqueens.com/news/2017/3/16/in-another-example-of-institutions-enabling-corruption-prosecutors-announce-no-criminal-charges-for-de-blasio>.

Because no charges were ever brought against anybody connected with any pay-to-play corruption scandals involving the de Blasio administration, the Campaign for One New York, or the BQX, the public have been left in the dark about what whether the BQX, still a pending real estate project under the de Blasio administration, was ever considered part of any Federal public corruption investigation. Not much is known about whether the BQX was considered by Federal prosecutors to be an example of pay-to-play corruption -- as it was so considered by the Editorial Board of *The New York Daily News*. Because no charges were ever brought against senior de Blasio administration officials, the public will have no opportunity, except for this FOIA Request, to learn about the documents, records, and information collected during the reported wide-ranging, Federal corruption investigation, particularly about the BQX project -- if it was a focus of that investigation at any one point. The only time when the public generally become aware of corruption is during corruption trials, but no trials are set to take place. **Without this information, the public will be unable to form complete thoughts and ideas about whether the BQX project merits public support or public rejection.** I make the following requests for documents, records, and information in hopes of filling that void.

A. Requested Records

1. Regarding the BQX project, all documents, records, and information from (x). the U.S. Attorney's Office for the Southern District of New York and (y). the U.S. Attorney's Office for the Eastern District of New York pertaining to any and all officials or their agents with : (i). the Office of the Mayor of the City of New York ; (ii). the NYC Department of Buildings ; (iii). the NYC Department of Transportation ; (iv). the NYC Department of Environmental Protection ; (v). the NYC Department of City Planning ; and (vi). the NYC Economic Development Corporation ;
2. Regarding the BQX project, all documents, records, and information from (x). the U.S. Attorney's Office for the Southern District of New York and (y). the U.S. Attorney's Office for the Eastern District of New York pertaining to : (i). the (A). 2013 and (B).

2014 campaign committees of Mayor de Blasio ; (ii). the Committee for One New York ; (iii). The Real Estate Board of New York ; (iv). The Partnership for New York City ; (v). the Mayor's Fund to Advance New York City ; and (vi). the Friends of Brooklyn-Queens Connector, Inc. ;

3. Regarding the BQX project, all documents, records, and information from (x). the U.S. Attorney's Office for the Southern District of New York and (y). the U.S. Attorney's Office for the Eastern District of New York pertaining to these corporations ; their officers ; their beneficial owners ; or their lobbyists, lobbying firms, or other agents : (i). Alma Realty ; (ii). Brookfield Properties ; (iii). Durst Organization ; (iv). Jamestown Properties ; (v). Park Tower Group ; (vi). RAL Development ; (vii). Steiner Studios ; (viii). Tishman Speyer ; (ix). Toll Brothers ; and (x). Two Trees ; (for identification purposes only, these corporations own real property or are developing real property amongst the proposed route of the BQX project) ;
4. Regarding the BQX project, all documents, records, and information from (x). the U.S. Attorney's Office for the Southern District of New York and (y). the U.S. Attorney's Office for the Eastern District of New York pertaining to New York City Councilmembers : (i). Corey Johnson ; (ii). Carlos Menchaca ; (iii). Brad Lander ; (iv). Stephen Levin ; (v). Laurie Cumbo ; (vi). Antonio Reynoso ; (vii). Jimmy Van Bramer ; (viii). Costa Constantinides ; (ix). Melissa Mark-Viverito ; (x). David Greenfield ; (xi). Ydanis Rodriguez ; (xii). Rafael Salamanca ; and
5. Regarding the BQX project, all documents, records, and information from (x). the U.S. Attorney's Office for the Southern District of New York and (y). the U.S. Attorney's Office for the Eastern District of New York pertaining to : (i). Alicia Glenn ; (ii). James Patchett ; (iii). Vicki Been ; (iv). Maria Torres-Springer ; (v). Emma Wolfe ; (vi). U.S. Senator Kirsten Gillibrand ; (vii). Brooklyn Borough President Eric Adams ; (viii). U.S. Rep. Nydia Velázquez ; (ix). U.S. Rep. Carolyn Maloney ; (x). NYS Senator Michael Gianaris ; and (xi). NYS Assemblymember Felix Ortiz.
6. Regarding the BQX project, all documents, records, and information from (x). the U.S. Attorney's Office for the Southern District of New York and (y). the U.S. Attorney's Office for the Eastern District of New York pertaining to any and all other documents or records not specifically referenced above.

B. Application For Expedited Processing

I request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) ; 22 C.F.R. § 171.12(b) ; 28 C.F.R. § 16.5(d) ; 32 C.F.R. § 286.4(d)(3) ; 32 C.F.R. § 1900.34(c). There is a « compelling need » for these records, because the information requested is urgently needed in order to be disseminated to inform the public about actual or alleged Federal Government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v) ; *see also* 22 C.F.R. § 171.12(b)(2) ; 28 C.F.R. § 16.5(d)(1)(ii) ; 32 C.F.R. § 286.4(d)(3)(ii) ; 32 C.F.R. § 1900.34(c)(2).

In addition, the records sought relate to a « breaking news story of general public interest. » *See* 22 C.F.R. § 171.11(b)(2) ; 32 C.F.R. § 286.4(d)(3)(ii)(A) ; *see also* 28 C.F.R.

§ 16.5(d)(1)(iv) (providing for expedited processing in relation to a « matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence »).

As a reporter, I am « primarily engaged in disseminating information » within the meaning of the statute and regulations. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II) ; 22 C.F.R. § 171.12(b)(2) ; 28 C.F.R. § 16.5(d)(1)(ii) ; 32 C.F.R. § 286.4(d)(3)(ii) ; 32 C.F.R. § 1900.34(c)(2). Dissemination of information to the public is a critical and substantial component of my mission and work, and I have written about the BQX project in the past. *See, e.g.,* Louis Flores, *Opposition to BQX street car service may force backers to explain continued support in face of growing criticism*, Progress Queens (06 Sept 2017), <http://www.progressqueens.com/news/2017/9/6/opposition-to-bqx-street-car-service-may-force-backers-to-explain-their-continued-support-in-face-of-growing-criticism>. I am a member of the online news coöperative Progress New York. I also publish a news Web site, Progress Queens and several blogs. I produce YouTube videos, and I manage several Twitter feeds.

The records and information sought directly relate to a breaking news story of general public interest that concerns the integrity and economic viability of a public works project estimated to cost \$2.5 billion. The documents, records, and information being sought will help inform the public about the BQX project. Because nobody in the de Blasio administration was charged with any corruption crimes in connection with the wide-ranging, Federal investigation of the de Blasio administration, the public has a right to know what information was gathered and collected about the BQX project. For these reasons, the documents, records, and information being sought relate to a « matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence. » *See* 28 C.F.R. § 16.5(d)(1)(iv).

C. Application for Waiver or Limitation of Fees

I request a waiver of search, review, and duplication fees on the grounds that disclosure of the requested records is in the public interest, because it « is likely to contribute significantly to public understanding of operations or activities of the government and is not primarily in the commercial interest of the requester. » *See* 5 U.S.C. § 552(a)(4)(A)(iii) ; 22 C.F.R. 171.17(a) ; *see also* 28 C.F.R. § 16.11(k)(1) ; 32 C.F.R. § 286.28(d) ; 32 C.F.R. § 1900.13(b)(2).

As discussed above, numerous news accounts reflect the considerable public interest in the requested records and information. Given the ongoing and widespread media attention to the BQX project, the documents, records, and information being sought in the instant Request will significantly contribute to public understanding of the BQX project. *See* 22 C.F.R. 171.17(a)(1) ; 28 C.F.R. § 16.11(k)(1)(i) ; 32 C.F.R. § 286.28(d) ; 32 C.F.R. § 1900.13(b)(2). Moreover, disclosure is not in my commercial interest. Any information disclosed by me as a result of this Request will be available to the public at no cost. Thus, a fee waiver would fulfill Congress's legislative intent in amending FOIA. *See Judicial Watch Inc. v. Rossitti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (« Congress amended FOIA to ensure that it be « liberally construed in favor of waivers for noncommercial requesters. » » (citation omitted)) ; OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, § 2

(31 Dec. 2007) (finding that « disclosure, not secrecy, is the dominant objective of the Act, » but that « in practice, the Freedom of Information Act has not always lived up to the ideals of that Act »).

I also request a waiver of search and review fees on the grounds that I qualify as a « representative of the news media, » and the records and information are not sought for commercial use. *See* 5 U.S.C. § 552(a)(4)(A)(ii) ; 28 C.F.R. § 16.11(d). Accordingly, fees associated with the processing of the Request should be « limited to reasonable standard charges for document duplication. » *See* 5 U.S.C. § 552(a)(4)(A)(ii)(II) ; *see also* 32 C.F.R. § 286.28(e)(7) ; 32 C.F.R. § 1900.13(i)(2) ; 22 C.F.R. 171.15(c) ; 28 C.F.R. § 16.11(d) (search and review fees shall not be charged to « representatives of the news media »).

I meet the statutory and regulatory definitions of a « representative of the news media » because I function as an « entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. » *See* 5 U.S.C. § 552(a)(4)(A)(ii)

\* \* \*

Pursuant to applicable statute and regulations, I expect determination regarding expediting processing within 10 calendar days. *See* 5 U.S.C. § 552(a)(6)(E)(ii)(I) ; 22 C.F.R. 171.12(b) ; 28 C.F.R. § 16.5(d)(4) ; 32 C.F.R. § 286.4(d)(3) ; 32 C.F.R. § 1900.21(d).

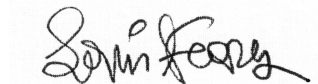
If the Request is denied in whole or in part, I ask that you justify all deletions by reference to specific exemptions to FOIA. We expect the release of all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information or to deny a waiver of fees.

Thank you for your prompt attention to this matter. Please furnish all applicable records to :

Louis Flores  
Progress New York  
75-22 37th Ave., No. 420  
Jackson Heights, NY 11372

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief.

Sincerely,



Louis Flores

cc : A.U.S.A. Rebecca Tinio, SDNY (via E-mail only : Rebecca.Tinio@usdoj.gov)  
A.U.S.A. Rukhsanah Singh, EDNY (via E-mail only : Rukhsanah.Singh@usdoj.gov)